

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 03-3949

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United States of America,

Appellee,

v.

Ricardo Valdovinos,

Appellant.

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Appeal from the United States  
District Court for the District  
of Nebraska.

[UNPUBLISHED]

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Submitted: July 27, 2004

Filed: July 30, 2004

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Before MURPHY, FAGG, and SMITH, Circuit Judges.

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PER CURIAM.

Ricardo Valdovinos challenges the sentence the district court\* imposed after Valdovinos pleaded guilty to possessing with intent to distribute approximately 500 grams or more of a mixture or substance containing methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A). Valdovinos's counsel has filed a brief under Anders v. California, 386 U.S. 738 (1967), contending the court should have granted Valdovinos safety-valve relief under U.S.S.G. § 5C1.2.

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\*The Honorable Thomas M. Shanahan, United States District Judge for the District of Nebraska.

Contrary to counsel's view, the district court could not have granted safety-valve relief in this case because Valdovinos did not submit to an interview with the government. See U.S.S.G. § 5C1.2; United States v. Gutierrez-Maldonado, 328 F.3d 1018, 1019 (8th Cir. 2003) (per curiam). In a pro se submission filed after the notice of appeal in this matter that we construe as a supplemental brief, Valdovinos appears to raise a claim of ineffective assistance of counsel. This claim, however, is not properly before the court. See United States v. Hughes, 330 F.3d 1068, 1069 (8th Cir. 2003).

We find no nonfrivolous issues after having performed our independent review under Penson v. Ohio, 488 U.S. 75, 80 (1988). We thus affirm the judgment of the district court, we grant counsel's motion to withdraw, and we deny Valdovinos's motion for new counsel.

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